

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Case No. 19-cr-93 (JRT/TNL)

Plaintiff,

v.

**MOTION FOR PRELIMINARY  
ORDER OF FORFEITURE**

ANDREW NATHANIEL DAVID PIONTEK,

Defendant.

The United States of America, through Erica H. MacDonald, United States Attorney for the District of Minnesota, and Craig R. Baune, Assistant United States Attorney, respectfully moves this Court for a Preliminary Order of Forfeiture pursuant to 18 U.S.C. § 2253(a) and Fed. R. Crim. P. 32.2.

**I. BACKGROUND**

On April 1, 2019, a Grand Jury in the District of Minnesota returned an Indictment against Defendant Andrew Nathaniel David Piontek. The Forfeiture Allegations of the Indictment provided notice that the United States sought forfeiture of, among other things, any property used or intended to be used to commit or to promote the commission of Counts 1 and 2 of the Indictment, and any property constituting, or traceable to, gross profits or other proceeds obtained from the offense pursuant to 18 U.S.C. § 2253(a).

On September 5, 2019, the United States and the Defendant entered into a Plea Agreement through which the Defendant agreed to plead guilty to Count 1 of the Indictment, which charged him with interstate transportation of child pornography, in violation of 18 U.S.C. §§ 2252(a)(1) (Docket No. 38.) The Defendant admitted that on December 11, 2018, he entered the United States at the Minneapolis/St. Paul

International Airport with a 128GB Thumb Drive, and six other electronics devices, that contained images and videos of child pornography (*Id.* at ¶ 2). The Defendant agreed to forfeit those devices and a MacBook Pro laptop computer that was subsequently seized. Specifically the Defendant agreed to forfeit the following property to the United States

- (1) a MacBook Pro laptop computer with serial #C02VW3XVHV2N;
- (2) an iPhone 7 model #A1660 with case, serial #DNPT503NHG7D;
- (3) an iPhone 6S model #A1633 with IMEI #354956074001798;
- (4) an Apple iPad with serial #DMPKPPWA;
- (5) San Disk thumb drive/WiFi device model #SDWS4;
- (6) A digital Camera containing a 64 GB Sandisk Pixtor SD Card, serial no. BN1528050252G;
- (7) A 128GB USB Thumb Drive, serial #BP180425831Z; and
- (8) a MacBook Pro laptop computer, serial number C02X81WPJHCD (together, “the Property”).

The Defendant agreed that the Property was used to commit and/or facilitate the violation to which he pled guilty. (*Id.* at ¶ 12.)

## II. ARGUMENT

Rule 32.2(b) of the Federal Rules of Criminal Procedure provides that:

(b) Entering a Preliminary Order of Forfeiture.

(1) Forfeiture Phase of the Trial.

(A) Forfeiture Determinations. As soon as practical . . . after a plea of guilty or nolo contendere is accepted, on any count in an indictment or information regarding which criminal forfeiture is sought, the court must determine what property is subject to forfeiture under the applicable statute. If the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense.

. . .

(B) Evidence and Hearing. The court's determination may be based on evidence already in the record, including any written plea agreement, and on any additional evidence or information submitted by the parties and accepted by the court as relevant and reliable. If the forfeiture is contested, on either party's request the court must conduct a hearing after the verdict or finding of guilty.

(2) Preliminary Order.

(A) Contents of a Specific Order. If the court finds that property is subject to forfeiture, it must promptly enter a preliminary order of forfeiture . . . directing the forfeiture of specific property, and directing the forfeiture of any substitute property if the government has met the statutory criteria. The court must enter the order without regard to any third party's interest in the property. Determining whether a third party has such an interest must be deferred until any third party files a claim in an ancillary proceeding under Rule 32.2(c).

Based upon the evidence set forth in the Plea Agreement, the United States has established the requisite nexus between the Property and the offense to which the Defendant has pleaded guilty. Moreover, the Defendant has consented to the forfeiture of the Property. Accordingly, the Property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 2253(a).

Section 853(n)(1) of Title 21, as incorporated by 18 U.S.C. § 2253(b), provides that following the entry of an order of forfeiture the United States shall publish notice of the order and may also provide direct written notice of the order to persons known to have alleged an interest in the property. Sections 853(n)(2)-(6) of Title 21 set out the process by which third parties asserting a legal interest in the property can obtain a judicial determination of the validity of the legal claims or interests they assert.

Pursuant to Section 853(n)(7), following the disposition of all third party petitions or, if no such petitions are filed, following the expiration of the time period specified within which to file such petitions, the United States shall have clear title to the property that is the subject of the order of forfeiture.

### III. CONCLUSION

For the foregoing reasons, the United States moves this Court for a Preliminary Order of Forfeiture forfeiting the following property to the United States:

- (1) a MacBook Pro laptop computer with serial #C02VW3XVHV2N;
- (2) an iPhone 7 model #A1660 with case, serial #DNPT503NHG7D;
- (3) an iPhone 6S model #A1633 with IMEI #354956074001798;
- (4) an Apple iPad with serial #DMPKPPWA;
- (5) San Disk thumb drive/WiFi device model #SDWS4;
- (6) A digital Camera containing a 64 GB Sandisk Pixtor SD Card, serial no. BN1528050252G;
- (7) A 128GB USB Thumb Drive, serial #BP180425831Z; and
- (8) MacBook Pro laptop computer, serial number C02X81WPJHCD.

Respectfully submitted,

Dated: December 12, 2019

ERICA H. MacDONALD  
United States Attorney

*s/ Craig R. Baune*

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